that in determining whether to apply for CSP funds, an eligible entity would evaluate the requirements of preparing an application and any associated costs and weigh them against the benefits likely to be achieved by receiving CSP grant. An eligible entity will probably apply only if it determines that the likely benefits exceed the costs of preparing an application.

The proposed priorities, requirements, definitions, and selection criteria would impose some additional burden on a small entity applying for a grant relative to the burden the entity would face in the absence of the proposed action.

This proposed regulatory action would not have a significant economic impact on a small entity once it receives a grant because it would be able to meet the costs of compliance using the funds provided under this program. We invite comments from small entities as to whether they believe this proposed regulatory action would have a significant economic impact on them and, if so, request evidence to support that belief.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or another accessible format.

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Ruth E. Ryder,

Deputy Assistant Secretary for Policy and Programs, Office of Elementary and Secondary Education.

[FR Doc. 2022–05463 Filed 3–11–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2020–0730; EPA–R05–OAR–2020–0731; EPA–R05–OAR–2022–0004; FRL–9629–01–R5]

Air Plan Approval; Michigan; Redesignation of the Detroit, MI Area to Attainment of the 2015 Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to find that the Detroit, Michigan area is attaining the 2015 primary and secondary ozone National Ambient Air Quality Standards (NAAQS), and to act in accordance with a request from the Michigan Department of Environment, Great Lakes, and Energy (EGLE) to redesignate the area to attainment for the 2015 ozone NAAQS because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). The Detroit area includes Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties. EGLE submitted this request on January 3, 2022. EPA is proposing to approve, as a revision to the Michigan State Implementation Plan (SIP), the State's plan for maintaining the 2015 ozone NAAQS through 2035 in the Detroit area. EPA is also proposing to approve Michigan's 2025 and 2035 volatile organic compound (VOC) and oxides of nitrogen (NO_X) motor vehicle emissions budgets (budgets) for the Detroit area and initiating the adequacy review process for these budgets. Finally, EPA is proposing to approve portions of separate December 18, 2020, submittals as meeting the applicable requirements for a base year emissions inventory and emissions statement program.

DATES: Comments must be received on or before April 13, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2020–0730, EPA–R05–OAR–2020–0731, or EPA–R05–OAR–2022–0004 at *http://www.regulations.gov,* or via email to *arra.sarah@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, *svingen.eric@epa.gov.* The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

I. What is EPA proposing?

EPA is proposing to take several related actions. EPA is proposing to determine that the Detroit nonattainment area is attaining the 2015 ozone NAAQS, based on quality-assured and certified monitoring data for 2019–2021, and that the Detroit area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Detroit area

from nonattainment to attainment for the 2015 ozone NAAQS. EPA is also proposing to approve, as a revision to the Michigan SIP, the State's maintenance plan for the area. The maintenance plan is designed to keep the Detroit area in attainment of the 2015 ozone NAAQS through 2035. EPA is proposing to approve the newly established 2025 and 2035 motor vehicle emissions budgets for the Detroit area and is initiating the adequacy process for these budgets. Finally, EPA is proposing to approve portions of Michigan's separate December 18, 2020, submittals, because they satisfy the applicable CAA requirements for a base year emissions inventory and emissions statement program for the Detroit area.

II. What is the background for these actions?

EPA has determined that ground-level ozone is detrimental to human health. On October 1, 2015, EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm). See 80 FR 65292 (October 26, 2015). Under EPA's regulations at 40 CFR part 50, the 2015 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.070 ppm, when truncated after the thousandth decimal place, at all of the ozone monitoring sites in the area. See 40 CFR 50.19 and appendix U to 40 CFR part 50.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent three years of quality assured ozone monitoring data. The Detroit area was designated as a Marginal nonattainment area for the 2015 ozone NAAQS on June 4, 2018 (83 FR 25776) (effective August 3, 2018).

III. What are the criteria for redesignation?

Section 107(d)(3)(E) of the CAA allows redesignation of an area to attainment of the NAAQS provided that: (1) The Administrator (EPA) determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (57 FR 13498) and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in policy memoranda.

IV. What is EPA's analysis of Michigan's redesignation request?

A. Has the Detroit area attained the 2015 ozone NAAQS?

For redesignation of a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2015 ozone NAAQS if it meets the 2015 ozone NAAQS, as determined in accordance with 40 CFR 50.19 and appendix U of part 50, based on three complete, consecutive calendar years of quality-assured air quality data for all monitoring sites in the area. To attain the 2015 ozone NAAQS, the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.070 ppm. The air quality data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). Ambient air quality monitoring data for the 3-year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90% of the days within the ozone monitoring seasons,[1] on average, for the 3-year period, with a minimum data completeness of 75% during the ozone monitoring season of any year during the 3-year period. See section 4 of appendix U to 40 CFR part 50.

EPA has reviewed the available ozone monitoring data from EGLE's monitoring sites in the Detroit area for the 2019–2021 period. These data have been quality assured, are recorded in the AQS, and were certified in advance of EPA's publication of this proposal. These data demonstrate that the Detroit area is attaining the 2015 ozone NAAQS. The annual fourth-highest 8-hour ozone concentrations and the 3-year average of these concentrations (monitoring site ozone design values) for all monitoring sites are summarized in Table 1.

TABLE 1—ANNUAL FOURTH-HIGHEST DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND 3-YEAR AVERAGE OF THE FOURTH-HIGHEST DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR THE DETROIT AREA

County	Monitor	2019 4th high (ppm)	2020 4th high (ppm)	2021 4th high (ppm)	2019–2021 average (ppm)
Macomb	26–099–0009	0.063	0.074	0.068	0.068
	26–099–1003	0.062	0.070	0.067	0.066
Oakland	26–125–0001	0.066	0.074	0.068	0.069
St. Clair	26–147–0005	0.070	0.069	0.072	0.070
Washtenaw	26–161–0008	0.060	0.072	0.066	0.066
	26–161–9991	0.058	0.067	0.063	0.062
Wayne	26–163–0001	0.062	0.070	0.069	0.067
	26–163–0019	0.068	0.073	0.069	0.070

[1] The ozone season is defined by state in 40 CFR 58, appendix D. The ozone season for Michigan is March-October. *See* 80 FR 65292, 65466–67 (October 26, 2015).

The Detroit area's 3-year ozone design value for 2019–2021 is 0.070 ppm,[2] which meets the 2015 ozone NAAQS. Therefore, in today's action, EPA proposes to determine that the Detroit area is attaining the 2015 ozone NAAQS.

EPA will not take final action to determine that the Detroit area is attaining the NAAQS nor to approve the redesignation of this area if the design value of a monitoring site in the area violates the NAAQS prior to final approval of the redesignation. As discussed in section IV.D.3. below, EGLE has committed to continue monitoring ozone in this area to verify maintenance of the 2015 ozone NAAQS.

B. Has Michigan met all applicable requirements of section 110 and part D of the CAA for the Detroit area, and does Michigan have a fully approved SIP for the area under section 110(k) of the CAA?

For redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (*see* section 107(d)(3)(E)(v) of the CAA) and that the state has a fully approved SIP under section 110(k) of the CAA (*see* section 107(d)(3)(E)(ii) of the CAA). EPA proposes to find that Michigan has met all applicable SIP requirements for purposes of redesignation under section 119 and part D of title I of the CAA (requirements specific to nonattainment areas for the 2015 ozone NAAQA). Additionally, with the exception of the base year emissions inventory requirement of section 182(a)(1) of the CAA and the emissions statement requirement of section 182(a)(3)(B) of the CAA, EPA proposes to find that Michigan has a fully approved SIP under section 110(k) of the CAA. As discussed in sections VI. and VII. below, EPA is proposing to approve Michigan's base year emissions inventory and emissions statement program as meeting the requirements of sections 182(a)(1) and 182(a)(3), respectively, for the 2015 ozone NAAQS. Upon final approval of these SIP elements, all applicable requirements of the Michigan SIP for the area will have been fully approved under section 110(k) of the CAA. In making these proposed determinations, EPA ascertained which requirements are applicable for purposes of redesignation, and whether the required Michigan SIP elements are fully approved under section 110(k) and part D of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to these applicable requirements of the CAA.

The September 4, 1992, memorandum from John Calcagni, Director, Air Quality Management Division, entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' describes EPA's interpretation of which requirements are ''applicable'' for purposes of redesignation under section 107(d)(3)(E) of the CAA. Under this interpretation, a requirement is not ''applicable'' unless it was due prior to the state's submittal of a complete redesignation request for the area. *See also* the September 17, 1993, memorandum from Michael H. Shapiro, entitled ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' and 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1hour ozone NAAQS). Applicable requirements of the CAA that come due subsequent to the state's submittal of a complete request remain applicable until a redesignation to attainment is approved but are not required as a prerequisite to redesignation.[3] *See* section 175A(c) of the CAA. *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004). *See also* 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1hour ozone NAAQS).

1. Michigan has met all applicable requirements of section 110 and part D of the CAA applicable to the Detroit area for purposes of redesignation.

a. Section 110 General Requirements for Implementation Plans

Section 110(a)(2) of the CAA delineates the general requirements for a SIP. Section 110(a)(2) provides that the SIP must have been adopted by the state after reasonable public notice and hearing, and that, among other things, it must: (1) Include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of stationary sources within the areas covered by the plan; (4) include provisions for the implementation of part C prevention of significant deterioration (PSD) and part D new source review (NSR) permit programs; (5) include provisions for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and, (7) provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires SIPs to contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address transport of certain air pollutants, *e.g.,* NO_X SIP call, the Clean Air Interstate Rule (CAIR), and the Cross State Air Pollution Rule (CSAPR). However, like many of the 110(a)(2) requirements, the section 110(a)(2)(D) SIP requirements are not linked with a particular area's ozone designation and classification. EPA concludes that the SIP requirements linked with the area's ozone designation and classification are the relevant measures to evaluate when reviewing a redesignation request for the area. The section 110(a)(2)(D) requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area within the state. Thus, we believe these requirements are not applicable requirements for purposes of redesignation. *See* 65 FR 37890 (June 15, 2000), 66 FR 50399 (October 19, 2001), 68 FR 25418, 25426–27 (May 13, 2003).

In addition, EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's ozone attainment status are not

[2] The monitor ozone design value for the monitor with the highest 3-year averaged concentration.

[3] EPA is, in a separate action, proposing to find that the Detroit area failed to attain the 2015 ozone NAAQS by its attainment date. If that determination were finalized, the area would be reclassified to Moderate by operation of law. However, because of EPA's interpretation and the date by which Michigan submitted its request, those Moderate area requirements are not considered applicable requirements for purposes of redesignating the Detroit area. Specifically, at the time Michigan submitted its request, EPA had not yet determined that the area failed to attain and had not yet reclassified the area. Per CAA section 182(i) and consistent with CAA section 179(d), EPA typically adjusts the deadlines for SIP submissions that are required for newly reclassified areas. Therefore, even if EPA were to finalize today the determination that the area failed to attain and reclassify the area, the deadline for the requirements associated with the reclassification would be set at some point in the future. Michigan submitted its request to redesignate well in advance of any hypothetical due date associated with Moderate area requirements.

applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated to attainment of the 2015 ozone NAAQS. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania proposed and final rulemakings, 61 FR 53174–53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997); Cleveland-Akron-Loraine, Ohio final rulemaking, 61 FR 20458 (May 7, 1996); and Tampa, Florida final rulemaking, 60 FR 62748 (December 7, 1995). *See also* the discussion of this issue in the Cincinnati, Ohio ozone redesignation (65 FR 37890, June 19, 2000), and the Pittsburgh, Pennsylvania ozone redesignation (66 FR 50399, October 19, 2001).

We have reviewed Michigan's SIP and propose to find that it meets the general SIP requirements under section 110 of the CAA, to the extent those requirements are applicable for purposes of redesignation. In any case, on September 28, 2021 (86 FR 53550), EPA approved elements of the SIP submitted by Michigan to meet the requirements of section 110 for the 2015 ozone standard.

b. Part D Requirements

Section 172(c) of the CAA sets forth the basic requirements of air quality plans for states with nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the areas' nonattainment classifications.

The Detroit area was classified as Marginal under subpart 2 for the 2015 ozone NAAQS. As such, the area is subject to the subpart 1 requirements contained in section 172(c) and section 176. Similarly, the area is subject to the subpart 2 requirements contained in section 182(a) (Marginal nonattainment area requirements). A thorough discussion of the requirements contained in section 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

i. Subpart 1 Section 172 Requirements

As provided in subpart 2, for Marginal ozone nonattainment areas such as the Detroit area, the specific requirements of section 182(a) apply in lieu of the attainment planning requirements that would otherwise apply under section 172(c), including the attainment demonstration and reasonably available control measures (RACM) under section 172(c)(1), reasonable further progress (RFP) under section 172(c)(2), and contingency measures under section 172(c)(9). 42 U.S.C. 7511a(a).

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. This requirement is superseded by the inventory requirement in section 182(a)(1) discussed below.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA approved Michigan's NSR program on December 16, 2013 (78 FR 76064), and most recently approved revisions to Michigan's NSR program on May 12, 2021 (86 FR 25954). Nonetheless, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in the October 14, 1994, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' *See* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996). Michigan's PSD program will become effective in the Detroit area upon redesignation to attainment. EPA conditionally approved Michigan's PSD program on September 16, 2008 (73 FR 53366), fully approved Michigan's PSD program on March 25, 2010 (75 FR 14352), and most recently approved revisions to Michigan's PSD program on May 12, 2021 (86 FR 25954).

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we believe the Michigan SIP meets the requirements of section 110(a)(2) for purposes of redesignation.

ii. Section 176 Conformity Requirements

Section 176(c) of the CAA requires that federally supported or funded projects conform to the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects that are developed, funded or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA interprets the conformity SIP requirements [4] as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state conformity rules have not been approved. See *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); see also 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Michigan has an approved conformity SIP for the Detroit area. See 61 FR 66609 (December 18, 1996) and 82 FR 17134 (April 10, 2017).

iii. Section 182(a) Requirements

Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of NO_X and VOC emitted within the boundaries of the ozone nonattainment area within two years of designation. On December 18, 2020, Michigan submitted emissions inventories for the Detroit area for the 2017 base year. As described in section VI. below, EPA is proposing to approve Michigan's base year emissions inventory as meeting the requirements

[4] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from SIPs requiring the development of motor vehicle emissions budgets, such as control strategy SIPs and maintenance plans.

of section 182(a)(1) for the 2015 ozone NAAQS.

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC reasonably available control technology (RACT) rules that were required under section 172(b)(3) prior to the 1990 CAA amendments. The Detroit area is not subject to the section 182(a)(2) RACT ''fix up'' requirement for the 2015 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments and, in any case, Michigan complied with this requirement for the Detroit area under the prior 1-hour ozone NAAQS. See 60 FR 46182 (September 7, 1994).

Section 182(a)(2)(B) requires each state with a Marginal ozone nonattainment area that implemented or was required to implement a vehicle inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision for an I/M program no less stringent than that required prior to the 1990 CAA amendments or already in the SIP at the time of the CAA amendments, whichever is more stringent. For the purposes of the 2015 ozone NAAQS and the consideration of Michigan's redesignation request for this standard, the Detroit area is not subject to the section 182(a)(2)(B) requirement because the Detroit area was designated as nonattainment for the 2015 ozone NAAQS after the enactment of the 1990 CAA amendments and because Michigan complied with this requirement for the Detroit area under the prior 1-hour ozone NAAQS.

Regarding the source permitting and offset requirements of section 182(a)(2)(C) and section 182(a)(4), Michigan currently has a fully approved part D NSR program in place. EPA approved Michigan's NSR program on December 16, 2013 (78 FR 76064), and most recently approved revisions to Michigan's NSR program on May 12, 2021 (86 FR 25954). In addition, EPA conditionally approved Michigan's PSD program on September 16, 2008 (73 FR 53366), fully approved Michigan's PSD program on March 25, 2010 (75 FR 14352), and most recently approved revisions to Michigan's PSD program on May 12, 2021 (86 FR 25954). The state's PSD program will become effective in the Detroit area upon redesignation to attainment.

Section 182(a)(3)(A) requires states to submit periodic emission inventories and section 182(a)(3)(B) requires states to submit a revision to the SIP to require the owners or operators of stationary sources to annually submit emissions statements documenting actual NO_X and VOC emissions. As discussed below in section IV.D.4. of this proposed rule, Michigan will continue to update its emissions inventory at least once every three years. With regard to stationary source emissions statements, EPA approved Michigan's emissions statement program on March 8, 1994 (49 FR 10752). On December 18, 2020, Michigan submitted a separate request to strengthen its SIP-approved emissions statement program by adding, removing, and updating certain statutes and reporting forms. As described in section VII. below, EPA is proposing to approve most portions of Michigan's emissions statement submittal as meeting the requirements of section 182(a)(3)(B) for the 2015 ozone NAAQS.

Upon approval of Michigan's emissions inventory and emissions statements rules, the Detroit area will have satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

2. The Detroit area has a fully approved SIP for purposes of redesignation under section 110(k) of the CAA.

At various times, Michigan has adopted and submitted, and EPA has approved, provisions addressing the various SIP elements applicable for the ozone NAAQS. As discussed above, if EPA finalizes approval of Michigan's section 182(a)(1) base year inventory requirements and section 182(a)(3)(B) emission statement requirements, EPA will have fully approved the Michigan SIP for the Detroit area under section 110(k) for all requirements applicable for purposes of redesignation under the 2015 ozone NAAQS. EPA may rely on prior SIP approvals in approving a redesignation request (*see* the Calcagni memorandum at page 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426). Additional measures may also be approved in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein).

C. Are the air quality improvements in the Detroit area due to permanent and enforceable emission reductions?

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions. EPA proposes to determine that Michigan has demonstrated that that the observed ozone air quality improvement in the Detroit area is due to permanent and enforceable reductions in VOC and NO_X emissions resulting from state measures adopted into the SIP and Federal measures.

In making this demonstration, the State has calculated the change in emissions between 2014 and 2019. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to several regulatory control measures that the Detroit area and upwind areas have implemented in recent years. In addition, Michigan provided an analysis to demonstrate the improvement in air quality was not due to unusually favorable meteorology. Based on the information summarized below, EPA proposes to find that Michigan has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

1. Permanent and Enforceable Emission Controls Implemented

a. Regional NO_X Controls

CAIR/CSAPR. Under the ''good neighbor provision'' of CAA section 110(a)(2)(D)(i)(I), states are required to address interstate transport of air pollution. Specifically, the good neighbor provision provides that each state's SIP must contain provisions prohibiting emissions from within that state which will contribute significantly to nonattainment of the NAAQS, or interfere with maintenance of the NAAQS, in any other state.

On May 12, 2005, EPA published CAIR, which required eastern states, including Michigan, to prohibit emissions consistent with annual and ozone season NO_X budgets and annual sulfur dioxide (SO_2) budgets (70 FR 25152). CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter ($PM_{2.5}$) NAAQS and was designed to mitigate the impact of transported NO_X emissions, a precursor of both ozone and $PM_{2.5}$, as well as transported SO_2 emissions, another precursor of $PM_{2.5}$. The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded CAIR to EPA for replacement in 2008. *North Carolina* v. *EPA,* 531 F.3d 896, *modified,* 550 F.3d 1176 (2008). While EPA worked on

developing a replacement rule, implementation of the CAIR program continued as planned with the NO_X annual and ozone season programs beginning in 2009 and the SO_2 annual program beginning in 2010.

On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA published CSAPR to replace CAIR and to address the good neighbor provision for the 1997 ozone NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 2006 $PM_{2.5}$ NAAQS.[5] Through Federal Implementation Plans, CSAPR required electric generating units (EGUs) in eastern states, including Michigan, to meet annual and ozone season NO_X budgets and annual SO_2 budgets implemented through new trading programs. After delays caused by litigation, EPA started implementing the CSAPR trading programs in 2015, simultaneously discontinuing administration of the CAIR trading programs. On October 26, 2016, EPA published the CSAPR Update, which established, starting in 2017, a new ozone season NO_X trading program for EGUs in eastern states, including Michigan, to address the good neighbor provision for the 2008 ozone NAAQS (81 FR 74504). The CSAPR Update was estimated to result in a 20% reduction in ozone season NO_X emissions from EGUs in the eastern United States, a reduction of 80,000 tons in 2017 compared to 2015 levels. On April 30, 2021, EPA published the Revised CSAPR Update, which fully resolved the obligations of eastern states, including Michigan, under the good neighbor provision for the 2008 ozone NAAQS (82 FR 23054). The Revised CSAPR Update is estimated to reduce ozone season NO_X emissions from EGUs by 17,000 tons beginning in 2021, compared to emissions without the rule. The reduction in NO_X emissions from the implementation of CAIR and then CSAPR occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

b. Federal Emission Control Measures

Reductions in VOC and NO_X emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following:

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. On February 10, 2000 (65 FR 6698), EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements. These emission control requirements result in lower VOC and NO_X emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur, which were phased in between 2004 and 2006. By 2006, refiners and importers were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. At the time of promulgation of Tier 2 standards, EPA estimated that this rule would cut NO_X and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76% and 28%, respectively. NO_X and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program were estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. As projected by these estimates and demonstrated in the on-road emission modeling for the Detroit area, a portion of these emission reductions occurred during the period 2014 through 2016, *i.e.,* after the area was designated nonattainment for the 2015 ozone NAAQS. As discussed below, the Tier 2 vehicle and gasoline sulfur standards were replaced by the Tier 3 emission standards for vehicles and gasoline sulfur standards beginning on January 1, 2017.

Tier 3 Emission Standards for Vehicles and Gasoline Sulfur Standards. On April 28, 2014 (79 FR 23414), EPA promulgated Tier 3 motor vehicle emission and fuel standards to reduce both tailpipe and evaporative emissions and to further reduce the sulfur content in fuels. The rule is being phased in between 2017 and 2025. Tier 3 sets new tailpipe standards for non-methane organic gases (NMOG) and NO_X, presented as NMOG+NO_X, and for particulate matter. The VOC and NO_X tailpipe standards for light-duty vehicles represent approximately an 80% reduction in fleet average NMOG+NO_X and a 70% reduction in per-vehicle particulate matter (PM) standards, relative to the fleet average at the time of phase-in. Heavy-duty tailpipe standards represent about a 60% reduction in both fleet average NMOG+NO_X and per-vehicle PM standards. The evaporative emissions requirements in the rule will result in approximately a 50% reduction from previous standards and apply to all light-duty and on-road gasoline-powered heavy-duty vehicles. Finally, the rule lowered the sulfur content of gasoline to an annual average of 10 ppm starting in January 2017. As projected by these estimates and demonstrated in the on-road emission modeling for the Detroit area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Heavy-Duty Diesel Engine Rules. In July 2000, EPA issued a rule for on-road heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NO_X, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NO_X and VOC emissions. EPA has estimated future year emission reductions due to implementation of this rule. EPA estimated that by 2015 NO_X and VOC emissions would decrease nationally by 1,260,000 tons and 54,000 tons, respectively, and that by 2030 NO_X and VOC emissions will decrease nationally by 2,570,000 tons and 115,000 tons, respectively. As projected by these estimates and demonstrated in the on-road emission modeling for the Detroit area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Nonroad Diesel Rule. On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for nonroad diesel engines and sulfur reductions in nonroad diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. Emission standards were phased in for the 2008 through 2015 model years based on engine size. The sulfur limits for nonroad diesel fuels were phased in from 2007 through 2012. EPA estimates that when fully implemented, compliance with this rule will cut NO_X emissions from these nonroad diesel engines by approximately 90%. As projected by these estimates and demonstrated in the nonroad emission modeling for the Detroit area, some of these emission reductions occurred by the attainment years and additional

[5] In a December 27, 2011 rulemaking, EPA included Michigan in the ozone season NO_X program, addressing the 1997 ozone NAAQS (76 FR 80760).

emission reductions will occur throughout the maintenance period.

Nonroad Spark-Ignition Engines and Recreational Engine Standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards were phased in from model years 2004 through 2012. When fully implemented, EPA estimates an overall 72% reduction in national VOC emissions from these engines and an 80% reduction in national NO_X emissions. As projected by these estimates and demonstrated in the nonroad emission modeling for the Detroit area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896), EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards apply beginning in 2011 and are expected to result in a 15 to 25% reduction in NO_X emissions from these engines. Final Tier 3 emission standards apply beginning in 2016 and are expected to result in approximately an 80% reduction in NO_X from these engines. As projected by these estimates and demonstrated in the nonroad emission modeling for the Detroit area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

c. Detroit Point Source NO_X Reductions.

The DTE Energy River Rouge power plant ceased operations in May 2021. In its submittal, EGLE estimated this shutdown would reduce annual point source NO_X emissions by 2,716 tons.

d. Detroit Low Reid Vapor Pressure (RVP) Program.

RVP is a measure of a fuel's volatility and thereby affects the rate at which gasoline evaporates and emits VOCs. The lower a fuel's RVP, the lower the rate of evaporation of the fuel. Lowering RVP in the summer months can offset the effect of summer temperature upon the evaporation of gasoline, which in turn lowers emissions of VOCs. Michigan's Low RVP program requires the sale of 7.0 psi RVP gasoline in the Detroit area during the summer months, as compared to the 9.0 psi RVP originally required under Federal RVP controls. EPA approved Michigan's Low RVP program for the Detroit area on January 31, 2007 (72 FR 4432).

2. Emission Reductions

Michigan is using a 2014 emissions inventory to represent nonattainment level emissions (nonattainment year inventory or nonattainment inventory), which is appropriate because it was one of the years used to designate the area as nonattainment due to an exceedance of the NAAQS. Michigan is using a 2019 emissions inventory to represent attainment level emissions (attainment year inventory or attainment inventory), which is appropriate because it is one of the years in the 2019–2021 period used to demonstrate monitored attainment with the NAAQS.

For both 2014 and 2019, Michigan has provided inventories for point, nonpoint, on-road, and nonroad sources. The point source category includes facilities that report their emissions directly to EGLE, as well as sources such as airports and rail yards. Nonpoint sources, sometimes called area sources, include emissions from sources that are more ubiquitous, such as consumer products or architectural coatings. On-road sources are vehicles that are primarily used on public roadways, such as cars, trucks, and motorcycles. Nonroad sources include engine-based emissions that do not occur on roads, such as trains or boats.

For its on-road emissions inventory, Michigan submitted an analysis by the Southeast Michigan Council of Governments (SEMCOG). This analysis used EPA's MOVES3 model to generate July weekday on-road emissions for both 2014 and 2019. SEMCOG's analysis relied on local travel inputs including demographic data, travel demand forecasting, road types, Vehicle Miles of Travel (VMT), Vehicle Hours of Travel, vehicle population, and vehicle age, as well as meteorological data. In Attachment B of its submittal, Michigan has included a detailed narrative of SEMCOG's methods.

For its point, nonpoint, and nonroad emissions inventories, Michigan's primary data sources were EPA's 2014 National Emissions Inventory (NEI)—Version 2 dataset and EPA's 2016v2 modeling platform. The 2014 NEI includes emissions data only for the year 2014, and the 2016v2 modeling platform includes emissions data for the years 2016, 2023, 2026 and 2032. EGLE used the 2014 NEI as the basis of its point, nonpoint, and nonroad inventories for 2014. To derive point, nonpoint, and nonroad inventories for 2019, EGLE interpolated between 2016 and 2023 data from the 2016v2 modeling platform. The 2016v2 modeling platform and 2014 NEI have been quality-assured, and documentation regarding these datasets and their methods is available on EPA's website.[6] In Attachment B of its submittal, Michigan has included a detailed listing of the facilities used to create the point source inventory for 2014.

To obtain the inventories for source categories other than on-road, EGLE summed the annual totals of NO_X and VOC emissions for each county and each source category. Then, to convert the annual totals to a value of tons per ozone season day, EGLE calculated a conversion factor for each county and each source category, using outputs from the 2016v2 modeling platform. This conversion factor was generated by taking the July category emissions and dividing them by the annual category emissions, and then dividing by 31 to represent the number of days in July. It was not necessary to determine a conversion factor for on-road emissions because SEMCOG provided results for a July weekday. EGLE selected July as the standard ozone season month, due to an analysis showing that July had the most days with high ozone values in recent years.

Because Michigan's inventory for 2019 relies on data from the 2016v2 modeling platform, EPA compared EGLE's inventory of point source emissions against records of actual point source emissions available to EPA through the Emissions Inventory System (EIS). To ensure that the two agencies' calculations for point source emissions for 2019 would be comparable, EPA converted annual totals of NO_X and VOC emissions to a value of tons per ozone season day using the same conversion factors calculated by EGLE. Both EGLE's analysis and EPA's analysis show a decrease in point source emissions from 2014 to 2019.[7]

Using the inventories described above for all categories of sources, Michigan's submittal documents changes in NO_X and VOC emissions from 2014 to 2019

[6] *https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-technical-support-document-tsd* and *https://www.epa.gov/air-emissions-modeling/2016-version-2-technical-support-document.*

[7] For both NO_X and VOC, EGLE's 2019 inventory shows emissions levels that are lower than the levels of actual emissions derived by EPA from EIS. By relying on the lower level of point source emissions from the 2016v2 modeling platform in setting the level of its attainment inventory, Michigan's inventories for the maintenance period, described in section IV.D.2. below, are more cautious than necessary in setting levels of emissions that are sufficient to attain the standard.

for the Detroit area. Emissions data are shown in Table 2. Data are expressed in terms of tons per ozone season day.

TABLE 2—NO_X AND VOC EMISSIONS IN THE DETROIT AREA FOR THE 2014 NONATTAINMENT YEAR AND 2019 ATTAINMENT YEAR

[Tons per ozone season day]

	NO_X			VOC		
	2014	2019	Net change (2014–2019)	2014	2019	Net change (2014–2019)
Point	166.86	97.01	−69.85	32.24	13.74	−18.50
Nonpoint	36.69	27.98	−8.71	149.93	134.77	−15.16
On-road	192.70	105.80	−86.90	83.20	51.70	−31.50
Nonroad	60.26	22.51	−37.75	69.63	30.46	−39.17
Total	456.51	253.30	−203.21	335.00	230.67	−104.33

As shown in Table 2, Michigan's inventories demonstrate that NO_X and VOC emissions in the Detroit area declined by 203.21 tons per ozone season day and 104.33 tons per ozone season day, respectively, between 2014 and 2019.

3. Meteorology and Temporary Adverse Economic Conditions

Michigan performed several analyses to further support its demonstration that the improvement in air quality is due to permanent and enforceable emission reductions, and not unusually favorable meteorology or temporary adverse economic conditions.

EGLE conducted a meteorological analysis based on 22 years of data collected at the three monitors that have historically monitored the highest ozone concentrations in the Detroit area. Michigan analyzed ozone values for May, June, July, August, and September, for years 2000 to 2021. First, the maximum 8-hour ozone concentration at each monitor was compared to the number of days where the maximum temperature was greater than or equal to 80 °F. Second, EGLE examined the relationship between the average summer temperature for each year of the 2000–2021 period and the fourth-highest 8-hour ozone concentration. Third, the number of days with an 8-hour average greater than 70 ppb was compared to the number of days where the maximum temperature was greater than or equal to 80 °F. These analyses show that over the last 22 years, ozone concentrations at the Detroit monitors have decreased substantially. In contrast, temperatures have increased, with the area showing an overall warming trend. Because the correlation between temperature and ozone formation is well established, these data suggest that reductions in precursors are responsible for the reductions in ozone concentrations in the area, and not unusually favorable summer temperatures.

To further support EGLE's demonstration that the improvement in air quality is not due to unusually favorable meteorology, an analysis was performed by the Lake Michigan Air Directors Consortium (LADCO). A classification and regression tree (CART) analysis was conducted with 2005 through 2019 data from Detroit area ozone sites. The goal of the analysis was to determine the meteorological and air quality conditions associated with ozone episodes, and construct trends for the days identified as sharing similar meteorological conditions. Regression trees were developed for the Detroit area ozone data to classify each summer day by its ozone concentration and associated meteorological conditions. By grouping days with similar meteorology, the influence of meteorological variability on the underlying trend in ozone concentrations is partially removed and the remaining trend is presumed to be due to trends in precursor emissions or other non-meteorological influences. The CART analysis showed the resulting trends in ozone concentrations declining over the period examined, supporting the conclusion that the improvement in air quality was not due to unusually favorable meteorology.

Michigan conducted an additional analysis to assess whether the improvement in air quality was caused by temporary adverse economic conditions, especially the economic conditions associated with the COVID–19 pandemic which first impacted Michigan in 2020. First, EGLE charted point source VOC emissions in the Detroit area from 2012 to 2020. Second, EGLE charted point source NO_X emissions in the Detroit area for the same period. These two charts show the overall downward trend in point source emissions from 2012 to 2020. Third, for 2014 to 2021, EGLE compared the maximum 8-hour ozone concentration against VMT and employment. This chart shows that VMT and employment had a direct correlation to one another, but these economic indicators had no correlation to ozone values. The impacts of the COVID–19 pandemic are apparent in data showing a decrease in point source emissions, VMT, and employment between 2019 and 2020. But these decreases were not associated with a corresponding decline in ozone values from 2019 to 2020. Instead, there was an increase in the fourth-highest 8-hour ozone concentration from 2019 to 2020. Together, these analyses show that economic conditions associated with the COVID–19 pandemic were not correlated with the improved air quality and strengthen Michigan's demonstration that the improved air quality is due to permanent and enforceable emissions reductions.

As discussed above, Michigan identified numerous Federal rules that resulted in the reduction of VOC and NO_X emissions from 2014 to 2019. In addition, Michigan's analyses of meteorological variables associated with ozone formation demonstrate that the improvement in air quality in the area between the year violations occurred and the year attainment was achieved is not due to unusually favorable meteorology. Michigan also showed that emissions reductions were not due to temporary adverse economic conditions, but rather were consistent with a longer-term trend. Therefore, EPA proposes to find that Michigan has shown that the air quality improvements in the Detroit area are due to permanent and enforceable emissions reductions.

D. Does Michigan have a fully approvable ozone maintenance plan for the Detroit area?

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iv) of the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as EPA deems necessary, to assure prompt correction of the future NAAQS violation.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. In conjunction with its request to redesignate the Detroit area to attainment for the 2015 ozone NAAQS, Michigan submitted a SIP revision to provide for maintenance of the 2015 ozone NAAQS through 2035, more than 10 years after the expected effective date of the redesignation to attainment. As discussed below, EPA proposes to find that Michigan's ozone maintenance plan includes the necessary components and to approve the maintenance plan as a revision of the Michigan SIP.

1. Attainment Inventory

EPA is proposing to determine that the Detroit area has attained the 2015 ozone NAAQS based on monitoring data for the period of 2019–2021. Michigan selected 2019 as the attainment emissions inventory year to establish attainment emission levels for VOC and NO_X. The attainment emissions inventory identifies the levels of emissions in the Detroit area that are sufficient to attain the 2015 ozone NAAQS. The derivation of the attainment year emissions is discussed above in section IV.C.2. of this proposed rule. The emissions for the 2019 attainment year, by source category, are summarized in Table 2 above.

2. Has the state demonstrated maintenance of the ozone standard in the Detroit area?

Michigan has demonstrated maintenance of the 2015 ozone NAAQS through 2035 by projecting that current and future emissions of VOC and NO_X for the Detroit area remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA,* 375 F. 3d 537 (7th Cir. 2004). *See also* 66 FR 53094, 53099–53100 (October 19, 2001), 68 FR 25413, 25430–25432 (May 12, 2003).

Michigan is using emissions inventories for the years 2025 and 2035 to demonstrate maintenance. 2035 was selected because it is more than 10 years after the expected effective date of the redesignation to attainment, and 2025 was selected to demonstrate that emissions are not expected to spike in the interim between the 2019 attainment year and the 2035 final maintenance year.

To develop emissions inventories for the years 2025 and 2035, Michigan used the same data sources discussed above in section IV.C.2. of this proposed rule.

For its on-road emissions inventory, Michigan again relied upon the SEMCOG analysis, which used EPA's MOVES3 model to generate July weekday on-road emissions for 2025 and 2035. SEMCOG's analysis relied on local travel inputs including demographic data, travel demand forecasting, road types, VMT, Vehicle Hours of Travel, vehicle population, and vehicle age, as well as meteorological data. In Attachment B of its submittal, Michigan has included a detailed narrative of SEMCOG's methods.

For its point, nonpoint, and nonroad emissions inventories, Michigan again used EPA's 2016v2 modeling platform. To derive inventories for 2025, EGLE interpolated between 2023 and 2026 data from the 2016v2 modeling platform. To derive inventories for 2035, EGLE extrapolated forward from the 2016v2 modeling platform data using the 2026 and 2032 years. For both the 2025 and 2035 inventories, to convert annual emissions totals into a value of tons per ozone season day, EGLE calculated conversion factors using the same methodology described in section IV.C.2. of this proposed rule.

By calculating its inventories through interpolation and extrapolation, EGLE projects that changes within a source category and county are linearly constant. For point sources, actual reductions may not align with inventories derived from linear interpolation, because shutdowns and the operation of new control equipment may be staggered across several years. However, given the magnitude of the reductions in other categories of sources, any uncertainty caused by linear interpolation would be outweighed by the emissions reductions in other sectors. Similarly, inventories derived from extrapolation may not align with actual reductions for some types of sources. However, even if Michigan as a cautious measure had projected that emissions from the 2016v2 modeling platform for the year 2032 would remain constant through 2035, this level of emissions would still have been sufficient to show that the area would maintain the standard through 2035. Although the 2016v2 modeling platform does not project emissions beyond 2032, some amount of additional reductions into future years is likely.

Emissions data for the 2014 nonattainment year, 2019 attainment year, 2025 interim year, and 2035 maintenance year are shown in Tables 3 and 4 below. Data are expressed in terms of tons per ozone season day.

TABLE 3—NO_X EMISSIONS IN THE DETROIT AREA FOR THE 2014 NONATTAINMENT YEAR, 2019 ATTAINMENT YEAR, 2025 INTERIM YEAR, AND 2035 MAINTENANCE YEAR

[Tons per ozone season day]

	2014	2019	2025	2035	Net change (2019–2035)
Point	166.86	97.01	80.83	76.44	−20.57
Nonpoint	36.69	27.98	27.39	25.84	−2.14
On-road	192.70	105.80	61.20	40.30	−65.50

TABLE 3—NO_X EMISSIONS IN THE DETROIT AREA FOR THE 2014 NONATTAINMENT YEAR, 2019 ATTAINMENT YEAR, 2025 INTERIM YEAR, AND 2035 MAINTENANCE YEAR—Continued

[Tons per ozone season day]

	2014	2019	2025	2035	Net change (2019–2035)
Nonroad	60.26	22.51	17.49	15.17	−7.34
Total	456.51	253.30	186.91	157.75	−95.55

TABLE 4—VOC EMISSIONS IN THE DETROIT AREA FOR THE 2014 NONATTAINMENT YEAR, 2019 ATTAINMENT YEAR, 2025 INTERIM YEAR, AND 2035 MAINTENANCE YEAR

[Tons per ozone season day]

	2014	2019	2025	2035	Net change (2019–2035)
Point	32.24	13.74	14.06	14.12	+0.38
Nonpoint	149.93	134.77	134.12	133.11	−1.66
On-road	83.20	51.70	34.40	22.00	−29.70
Nonroad	69.63	30.46	27.39	26.56	−3.90
Total	335.00	230.67	209.97	195.79	−34.88

As shown in Tables 3 and 4, NO_X and VOC emissions in the Detroit area are projected to decrease by 95.55 tons per ozone season day and 34.88 tons per ozone season day, respectively, between the 2019 attainment year and 2035 maintenance year. Michigan's maintenance demonstration for the Detroit area shows maintenance of the 2015 ozone NAAQS by providing emissions information to support the demonstration that future emissions of NO_X and VOC will remain at or below 2019 emission levels when considering both future source growth and implementation of future controls.

In addition, EPA's 2016v2 modeling platform includes updated air quality modeling of the contiguous United States, projecting ozone concentrations at all air quality monitors in 2023, 2026, and 2032.[8] That modeling incorporates the most recent updates to emissions inventories, including on-the-books emissions reductions, and meteorology. This modeling indicates that EPA does not project the Detroit area to be in nonattainment of the 2015 ozone NAAQS, nor does EPA expect the area to struggle with maintenance, in those modeled future years. We propose to find that EPA's ozone transport air quality modeling further supports Michigan's demonstration that the Detroit area will continue to maintain the 2015 ozone NAAQS.

3. Continued Air Quality Monitoring

Michigan has committed to continue to operate its ozone monitors in the Detroit area for the duration of the maintenance period. Michigan remains obligated to meet monitoring requirements, to continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the AQS in accordance with Federal guidelines.

4. Verification of Continued Attainment

Michigan has confirmed that it has the legal authority to enforce and implement the requirements of its SIP. Michigan has further committed that it has the authority to implement the requested SIP revision, which would include the maintenance plan for the Detroit area. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area's emissions inventory. Michigan will continue to operate the ozone monitors located in the Detroit area. There are no plans to discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through revisions in the network approved by EPA.

In addition, to track future levels of emissions, Michigan will continue to develop and submit to EPA updated emission inventories for all source categories at least once every three years, consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Michigan was compiled for 2017, and 2020 is in progress. Point source facilities covered by Michigan's emission statement program, described below in section VII., will continue to submit VOC and NO_X emissions on an annual basis.

5. What is the contingency plan for the Detroit area?

Section 175A of the CAA requires that the state adopt a maintenance plan as a SIP revision that includes such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify: The contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the state will implement all measures with respect to the control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

[8] *https://www.epa.gov/air-emissions-modeling/2016v2-platform.*

As required by section 175A of the CAA, Michigan has adopted a contingency plan for the Detroit area to address possible future ozone air quality problems. The contingency plan adopted by Detroit has two levels of response, a warning level response and an action level response.

In Michigan's plan, a warning level response will be triggered when an annual fourth-highest monitored value of 0.074 ppm or higher is monitored within the maintenance area. A warning level response will require Michigan to conduct a study. The study would assess whether the ozone value indicates a trend toward a higher ozone value and whether emissions appear to be increasing. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend, taking into account ease and timing of implementation. Any implementation of necessary controls in response to a warning level response trigger will occur within 18 months of the conclusion of the ozone season.

In Michigan's plan, an action level response would be triggered when the fourth-highest monitored value, averaged over two years, of 0.071 ppm or higher is monitored within the maintenance area. The action level response will also be triggered if a three-year design value exceeds the level of the 2015 ozone NAAQS (0.070 ppm). When an action level response is triggered and not found to be due to an exceptional event, malfunction, or noncompliance with a permit condition or rule requirement, Michigan will determine what additional control measures are needed to assure future attainment of the 2015 ozone NAAQS. Control measures selected will be adopted and implemented within 18 months from the close of the ozone season that prompted the action level. Michigan may also consider if significant new regulations not currently included as part of the maintenance provisions will be implemented in a timely manner and would thus constitute an adequate contingency measure response.

Michigan included the following list of potential contingency measures in its maintenance plan. However, Michigan is not limited to the measures on this list:

1. VOC or NO_X RACT rules for existing sources covered by Control Technique Guidelines, Alternative Control Guidelines, or other appropriate guidance
2. Application of VOC RACT on existing smaller sources
3. Alternative fuel and diesel retrofit programs for fleet vehicle operations
4. VOC or NO_X control on sources emitting less than 100 tons per year
5. Increased VOC or NO_X emission offsets for new and modified major sources
6. Reduced idling programs
7. Trip reduction programs
8. Traffic flow and transit improvements
9. Increased turnover of legacy natural gas distribution pipelines
10. Stationary engine controls
11. Rules under the American Innovation and Manufacturing Act
12. Rules for consumer products
13. Additional measures identified by EGLE

To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plan.

EPA has concluded that Michigan's maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. In addition, as required by section 175A(b) of the CAA, Michigan has committed to submit to EPA an updated ozone maintenance plan eight years after redesignation of the Detroit area to cover an additional ten years beyond the initial 10-year maintenance period. Thus, EPA finds that the maintenance plan SIP revision submitted by Michigan for the Detroit area meets the requirements of section 175A of the CAA, and EPA proposes to approve it as a revision to the Michigan SIP.

V. Has the state adopted approvable motor vehicle emission budgets?

A. Motor Vehicle Emission Budgets

Under section 176(c) of the CAA, new transportation plans, programs, or projects that receive Federal funding or support, such as the construction of new highways, must ''conform'' to (*i.e.,* be consistent with) the SIP. Conformity to the SIP means that transportation activities will not cause or contribute to any new air quality violations, increase the frequency or severity of any existing air quality problems, or delay timely attainment or any required interim emissions reductions or any other milestones. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and ensuring conformity of transportation activities to a SIP.

Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS, but that have been redesignated to attainment with an approved CAA section 175A maintenance plan for the NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs for nonattainment areas and maintenance plans for areas seeking redesignations to attainment of the ozone standard and maintenance areas. *See* the SIP requirements for the 2015 ozone standard in EPA's December 6, 2018, implementation rule (83 FR 62998). These control strategy SIPs (including reasonable further progress plans and attainment plans) and maintenance plans must include motor vehicle emissions budgets for criteria pollutants, including ozone, and their precursor pollutants (VOC and NO_X) to address pollution from on-road transportation sources. The budgets are the portion of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance. *See* 40 CFR 93.101.

Under 40 CFR part 93, a budget for an area seeking a redesignation to attainment must be established, at minimum, for the last year of the maintenance plan. A state may adopt budgets for other years as well. The budget serves as a ceiling on emissions from an area's planned transportation system. The budget concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the budget(s) in the SIP and how to revise the budget(s), if needed, after initially establishing a budget in the SIP.

As discussed earlier, Michigan's maintenance plan includes NO_X and VOC budgets for the Detroit area for 2025, which is an interim year, as well as 2035, which is the last year of the maintenance period. EPA has reviewed Michigan's NO_X and VOC budgets for the area and, in this action, is proposing to approve them.[9] We are also starting the adequacy review process for these budgets to determine if they meet the adequacy criteria in the transportation conformity regulations (40 CFR 93.118(e)(4)). Michigan's January 3, 2022, maintenance plan submission, including the budgets for this area, is available for public comment via this

[9] See 40 CFR 93.118(f)(2) for requirements associated with making adequacy findings through rulemaking on a submitted SIP.

proposed rulemaking. The submission was endorsed by the Governor's designee and Michigan provided opportunity for a public hearing. The budgets were developed as part of an interagency consultation process which includes Federal, state, and local agencies. The budgets were clearly identified and precisely quantified. These budgets, when considered together with all other emissions sources, are consistent with maintenance of the 2015 ozone NAAQS.

TABLE 5—MOTOR VEHICLE EMISSIONS BUDGETS FOR THE DETROIT AREA FOR THE 2025 INTERIM YEAR AND 2035 MAINTENANCE YEAR

[Tons per ozone season day]

	2025 Interim year			2035 Maintenance year		
	Projected on-road emissions	Safety margin allocation	Total budget	Projected on-road emissions	Safety margin allocation	Total budget
NO_X	61.20	43.15	104.35	40.30	62.11	102.41
VOCs	34.40	13.46	47.86	22.00	22.67	44.67

As shown in Table 5, the 2025 and 2035 budgets exceed the estimated 2025 and 2035 on-road sector emissions. To accommodate future variations in VMT in the area, EGLE allocated to the mobile sector a portion of the safety margin, as described further below.[10] Michigan has demonstrated that the Detroit area can maintain the 2015 ozone NAAQS in the 2035 maintenance year with mobile source emissions of 102.41 tons per ozone season day of NO_X and 44.67 tons per ozone season day of VOCs. Similarly, the Detroit area can maintain the 2015 ozone NAAQS in the 2025 interim year with mobile source emissions of 104.35 tons per ozone season day of NO_X and 47.86 tons per ozone season day of VOCs. Despite partial allocation of the safety margin, emissions will remain under emission levels in the 2019 attainment year.

EPA is proposing to approve the budgets for use to determine transportation conformity in the Detroit area, because EPA has determined that the area can maintain attainment of the 2015 ozone NAAQS for the relevant maintenance period with mobile source emissions at the levels of the budgets.

B. What is a safety margin?

A ''safety margin'' is the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirement for maintenance. 40 CFR 93.101. As noted in Tables 3 and 4, the emissions in the Detroit area are projected to have safety margins of 95.55 tons per ozone season day for NO_X and 34.88 tons per ozone season day for VOC in 2035 (the difference between emissions in the 2019 attainment year, and projected emissions in the 2035 maintenance year, for all sources in the Detroit area). Similarly, there is a safety margin of 66.39 tons per ozone season day for NO_X and 20.69 tons per ozone season day for VOC in 2025. Even if emissions exceeded projected levels by the full amount of the safety margin, the counties would still demonstrate maintenance since emission levels would equal those in the attainment year.

As shown in Table 5 above, Michigan is allocating a portion of that safety margin to the mobile source sector. Specifically, in 2025, Michigan is allocating 43.15 tons per ozone season day and 13.46 tons per ozone season day of the NO_X and VOC safety margins, respectively. In 2035, Michigan is allocating 62.11 tons per ozone season day and 22.67 tons per ozone season day of the NO_X and VOC safety margins, respectively. Michigan is not requesting allocation to the budgets of the entire available safety margins reflected in the demonstration of maintenance. In fact, the amount allocated to the budgets represents only a portion of the 2025 and 2035 safety margins. Therefore, even though the State is requesting budgets that exceed the projected on-road mobile source emissions for 2025 and 2035 contained in the demonstration of maintenance, the increase in on-road mobile source emissions that can be considered for transportation conformity purposes is within the safety margins of the ozone maintenance demonstration. Further, once allocated to mobile sources, these safety margins will not be available for use by other sources.

VI. Base Year Emissions Inventory

As discussed above, sections 172(c)(3) and 182(a)(1) of the CAA require states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of NO_X and VOC emitted within the boundaries of the ozone nonattainment area. For the 2015 ozone NAAQS, EPA specifies that states submit ozone season day emissions estimates for an inventory calendar year to be consistent with the base year for RFP plans as required by 40 CFR 51.1310(b). For the RFP base year for the 2015 ozone NAAQS under 40 CFR 51.1310(b), states may use a calendar year for the most recently available complete triennial emissions inventory (40 CFR 51, subpart A) preceding the year of the area's effective date of designation as a nonattainment area (83 FR 62998).[11] *See* the SIP requirements for the 2015 ozone standard in EPA's December 6, 2018, implementation rule (83 FR 62998), and EPA's 2017 document ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations.'' [12]

In its December 18, 2020, submittal, Michigan requested that EPA approve into its SIP an inventory addressing the emissions inventory requirement of CAA section 182(a)(1). Michigan's SIP revision included inventories of NO_X and VOC emissions for several nonattainment areas, including the Detroit area, for the year 2017. At the time of its submittal, data for 2017 was the most recent comprehensive, accurate, and quality assured triennial emissions inventory in the NEI database. Michigan's submittal included estimates of NO_X and VOC emissions for four general classes of anthropogenic sources, point, nonpoint, on-road mobile, and nonroad mobile; biogenic

[10] Allocation of a safety margin to an area's motor vehicle emissions budgets is provided for by the transportation conformity rule. *See* 40 CFR 93.124(a).

[11] The RFP requirements specified in CAA section 182(b)(1) applies to all ozone nonattainment areas classified Moderate or higher.

[12] *https://www.epa.gov/sites/default/files/2016-12/documents/2016_ei_guidance_for_naaqs.pdf.*

emissions; and event emissions, which are discrete and short-lived sources such as wildfires.

To develop emissions inventories for the year 2017, Michigan began with annual emissions data contained in the 2017 NEI for the point, nonpoint, on-road, nonroad, biogenic, and event categories. In developing ozone season day emissions, Michigan again used July as the representative ozone season month. EGLE also analyzed the prevalence of weekend days with ozone values exceeding the 2015 ozone NAAQS and determined that including weekend days in the typical ozone season day emission derivation is appropriate. To convert annual emissions data to ozone season day values, EGLE extracted data from EPA's 2016v1 modeling platform and calculated a conversion factor for the point, nonpoint, on-road, nonroad, and biogenic data categories.[13] EGLE determined the event category emissions were too low and too variable from year to year to benefit from applying a conversion factor.

Under CAA section 182(a)(1) and 40 CFR 51.1115, states must submit a base year emissions inventory within two years of the effective date of designation of each nonattainment area for the 2015 ozone NAAQS. For the Detroit area, this requirement became due on August 3, 2020. At the time that EGLE prepared its inventory of 2017 emissions to address the requirements of section 182(a)(1), several improvements in data sources were not yet available. Specifically, EGLE relied upon a version of the 2017 NEI that did not include a revised point source inventory to correct airport emissions. Additionally, EGLE relied upon the 2016v1 modeling platform, which did not yet include improvements from the 2016v2 modeling platform including updated information from the 2017 NEI, MOVES3, and revised inventory methodologies. EPA is not evaluating Michigan's 2017 emissions inventory against platforms or data sources that were not available at the time of submission.

NO_X and VOC emissions data for the year 2017 are shown in Tables 6 and 7 below. Data are expressed in terms of tons per ozone season day.

TABLE 6—NO_X EMISSIONS FOR COUNTIES IN THE DETROIT AREA FOR THE 2017 BASE YEAR

[Tons per ozone season day]

	Point	Nonpoint	On-road	Nonroad	Biogenic	Event	Total
Livingston	1.53	0.72	5.78	1.13	1.32	0.04	10.52
Macomb	2.55	3.78	16.19	3.83	1.21	0.02	27.58
Monroe	16.05	1.43	5.22	1.31	2.29	0.01	26.31
Oakland	2.83	5.22	29.68	7.54	1.37	0.08	46.72
St. Clair	55.62	3.04	3.98	1.42	1.99	0.03	66.08
Washtenaw	2.56	1.45	9.35	1.64	1.73	0.05	16.78
Wayne	41.35	7.77	36.79	2.71	1.00	0.05	89.67
Total	122.49	23.41	106.99	19.58	10.91	0.28	283.66

TABLE 7—VOC EMISSIONS FOR COUNTIES IN THE DETROIT AREA FOR THE 2017 BASE YEAR

[Tons per ozone season day]

	Point	Nonpoint	On-road	Nonroad	Biogenic	Event	Total
Livingston	0.42	6.10	3.14	1.77	22.11	0.65	34.19
Macomb	8.22	28.46	11.50	4.77	13.64	0.47	67.06
Monroe	0.97	5.79	2.66	2.02	13.17	0.18	24.79
Oakland	2.61	36.72	18.55	10.62	33.00	1.48	102.98
St. Clair	3.16	5.68	2.45	2.41	28.77	0.59	43.06
Washtenaw	0.61	15.56	5.12	2.59	22.67	0.77	47.32
Wayne	15.19	57.45	21.74	8.50	24.51	1.05	128.44
Total	31.18	155.76	65.16	32.68	157.87	5.19	447.84

As shown in Table 6, total NO_X emissions in the Detroit area for the 2017 base year are 283.66 tons per summer day. As shown in Table 7, total VOC emissions in the Detroit area for the 2017 base year are 447.84 tons per summer day.

Michigan's December 18, 2020, emissions inventory submission includes a demonstration showing that approval of this SIP revision is consistent with CAA section 110(l). Section 110(l) provides that EPA cannot approve a SIP revision if the revision would interfere with attainment and maintenance of the NAAQS, reasonable further progress, or any other applicable requirement of the CAA. EGLE is making this submission as required by CAA sections 172(c)(3) and 182(a)(1), and approval of the 2017 base year inventories would strengthen the Michigan SIP and would not interfere with any applicable CAA requirement.

EPA reviewed Michigan's December 18, 2020, submittal for consistency with sections 172(c)(3) and 182(a)(1) of the CAA, and with EPA's emissions inventory requirements. In particular, EPA reviewed the techniques used by EGLE to derive and quality assure the emissions estimates. The documentation of the emissions estimation procedures is thorough and is adequate for EPA to determine that Michigan followed acceptable procedures to estimate the emissions. Accordingly, we propose to conclude that Michigan has developed inventories of NO_X and VOC emissions that are comprehensive and complete. EPA therefore proposes to approve the emissions inventory for the Detroit area in Michigan's December 18, 2020, submittal and shown above in Tables 6 and 7 as meeting the emissions

[13] *https://www.epa.gov/air-emissions-modeling/2016v1-platform.*

inventory requirements of sections 172(c)(3) and 182(a)(1) of the CAA.

In this rulemaking, EPA is only evaluating the portions of Michigan's December 18, 2020, emissions inventory submittal relating to the Detroit area. EPA is not evaluating inventories relating to other nonattainment areas. Instead, EPA will evaluate these inventories in a separate rulemaking.

VII. Emissions Statement

Section 182(a)(3)(B) of the CAA requires states with ozone nonattainment areas to submit revisions to their SIP to require the owner or operator of each stationary source of NO_X or VOC to provide the state with an annual statement documenting the actual emissions of NO_X and VOC from their source. Under section 182(a)(3)(B)(ii), a state may waive the emissions statement requirement for any class or category of stationary sources which emits less than 25 tons per year of VOC or NO_X if the state, in its base year emissions inventory, provides an inventory of emissions from such class or category of sources based on the EPA's emission factors, or other method acceptable to the EPA.

On March 8, 1994, EPA approved Michigan's emission statement program as a revision to the SIP (59 FR 10752). Specifically, EPA approved into the SIP the following: Section 5 of the 1965 Air Pollution Act 348 (1965 PA 348), Section 14a of 1965 PA 348, Air Pollution Control Rule 336.202 (Rule 2), and the 1993 Michigan Air Pollution Reporting Forms, Reference Tables, and General Instructions.

In a separate SIP submittal also dated December 18, 2020, Michigan requested that EPA revise the emissions statement program in its SIP by adding, removing, and updating certain statutes and reporting forms.

First, Michigan requests that EPA remove from the SIP Section 5 of 1965 PA 348 and approve into the SIP Michigan Complied Laws (MCL) 324.5503, Section 5503 of 1994 PA 451. At the time that EPA approved Section 5 of 1965 PA 348 in 1994, this measure conferred several authorities onto the Michigan Commission on the Environment, including the authority to require sources to report their emissions. In 1995, 1965 PA 348 was repealed by the Michigan Legislature and replaced with 1994 PA 451, and all Commission powers were transferred to the department. EGLE's current authority to require emissions reports, which Michigan is now requesting EPA approve into the SIP, is provided at MCL 324.5503, Section 5503 of 1994 PA 451.

Second, Michigan requests that EPA remove from the SIP Section 14a of 1965 PA 348, which relates to surveillance fees. In its submittal, Michigan states its belief that Section 14a was incorrectly submitted to and approved into the SIP as part of the emissions statement program, and that this measure is not required as part of an emissions statement program. In this rulemaking, EPA is not evaluating the portion of Michigan's submittal requesting the removal of Section 14a of 1965 PA 348 from its SIP. Instead, EPA will evaluate this request in a separate rulemaking.

Third, Michigan requests that EPA retain in its SIP Rule 2 and strengthen this rule by approving into the SIP AQD–013, Last Revision Date: July 22, 2020, entitled ''Criteria Pollutant Threshold Levels for Point Sources'' (AQD–013), of EGLE's AQD Policy and Procedure. Michigan's remaining authority to require emissions reports from certain sources is provided at Rule 2; since EPA approved Rule 2 into its SIP, Michigan has developed specific policies and procedures to determine which stationary sources must comply with Rule 2. These policies and procedures, including specific thresholds of emissions that trigger Rule 2 applicability, are provided at AQD–013. Additionally, AQD–013 is applicable to the emissions reporting requirements of Air Pollution Control Rule 336.1212 (Rule 212), which EPA approved into the SIP on August 31, 2018 (83 FR 44485). Michigan first developed AQD–013 in 1996 and most recently updated AQD–013 in 2020.

Fourth, Michigan requests that EPA remove from the SIP its 1993 Michigan Air Pollution Reporting forms and reference tables and strengthen its SIP by replacing them with the 2019 version of certain Michigan Air Emissions Reporting System (MAERS) forms. Specifically, Michigan is requesting that EPA approve into the SIP the 2019 version of five forms: MAERS form SB–101 Submit, MAERS form S–101 Source, MAERS form A–101 Activity, MAERS form EU–101 Emission Unit, and MAERS form E–101 Emissions. These forms satisfy requirements under EPA's 1992 Guidance on the Implementation of an Emission Statement Program relating to certification of data accuracy, source identification information, operating schedule, emissions information, control equipment information, and process data.

Fifth, Michigan requests that EPA remove from its SIP the 1993 general instructions and strengthen its SIP by replacing them with the January 2020 MAERS User Guide. EGLE no longer uses the 1993 general instructions that are currently in the SIP, and instead provides sources with its 2020 user guide, which clearly defines terms used in the MAERS forms and aids the sources in completing their MAERS submittal via the electronic format for all required pollutants.

Michigan's December 18, 2020, emissions statement submission also includes a demonstration showing that approval of this SIP revision is consistent with CAA section 110(l). The revisions EPA is proposing to approve would strengthen Michigan's SIP-approved emissions statement program by removing from the SIP outdated reporting forms and a statute that has been repealed by the state legislature and replacing those measures with the statute containing the state's current authority to require the reporting of emissions, as well as updated program forms, policies and procedures, and user information. These revisions would not interfere with any applicable CAA requirement.

EPA reviewed Michigan's December 18, 2020, submittal for consistency with 182(a)(3)(B) of the CAA and EPA's Guidance on the Implementation of an Emission Statement Program. Section 182(a)(3)(B) requires annual submission emissions from stationary sources with emissions greater than 25 tons per year (tpy) of NO_X and VOC. At AQD–013, Michigan requires annual reports from sources with VOC emissions of 10 tpy or greater statewide, and NO_X emissions of 25 tpy or greater in ozone nonattainment areas and 40 tpy in all other areas of the state. As described above, EPA will address the portion of Michigan's submittal requesting the removal of Section 14a of 1965 PA 348 from its SIP in a separate action. The remaining portions of Michigan's submittal are consistent with 182(a)(3)(B) of the CAA and relevant guidance and would strengthen Michigan's SIP-approved emissions statement program. EPA therefore proposes to approve the remaining portions of Michigan's December 18, 2020, emissions statement submittal as meeting the emissions statement requirements of section 182(a)(3)(B) of the CAA.

VIII. What action is EPA taking?

EPA is proposing to determine that the Detroit nonattainment area is attaining the 2015 ozone NAAQS, based on quality-assured and certified monitoring data for 2019–2021. EPA is proposing to approve portions of Michigan's December 18, 2020, submittals as meeting the base year emissions inventory and emissions

statement requirements of sections 182(a)(1) and 182(a)(3), respectively. EPA is also proposing to approve, as a revision to the Michigan SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Detroit area in attainment of the 2015 ozone NAAQS through 2035. EPA is proposing to determine that upon final approval of Michigan's 2017 base year emissions inventory, emission statement SIP, and maintenance plan SIP, the area will have met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Detroit area from nonattainment to attainment for the 2015 ozone NAAQS. Finally, EPA is proposing to approve the newly established 2025 and 2035 motor vehicle emissions budgets for the Detroit area and initiating the adequacy process for these budgets.

IX. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Michigan Act 451, Section 5503, effective March 30, 1995. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

X. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, the proposed actions to approve Michigan's SIP submissions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For these reasons, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 7, 2022.

Debra Shore,

Regional Administrator, Region 5.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 312

[EPA–HQ–OLEM–2021–0946; FRL–9334–01–OLEM]

Standards and Practices for All Appropriate Inquiries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend the Standards and Practices for All Appropriate Inquiries to reference a standard practice recently made available by ASTM International, a widely recognized standards development organization. Specifically, EPA is proposing to amend the All Appropriate Inquiries Rule to reference ASTM International's E1527–21 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'' and allow for its use to satisfy the requirements for conducting all appropriate inquiries under the Comprehensive Environmental Response, Compensation, and Liability Act. In the ''Rules and Regulations'' section in this issue of **Federal Register**, EPA is amending the All Appropriate Inquiries Rule to reference ASTM International's E1527–21 standard practice as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received by April 13, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2021–0946 at *www.regulations.gov:* Follow the on-line